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Lynnette Zeller

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

LYNNETTE ZELLER,

Plaintiff,

vs.

UNUM LIFE INSURANCE COMPANY OF
AMERICA

Defendant.

CASE NO.: 4:22-cv-6705

COMPLAINT (ERISA)

Plaintiff, Lynnette Zeller, herein sets forth the allegations of her Complaint against Defendant Unum Life Insurance Company of America (“Unum”).

PRELIMINARY ALLEGATIONS

1. This action is brought under 29 U.S.C. §§ 1132(a), (e), (f) and (g) of the Employee Retirement Income Security Act of 1974 (hereinafter “ERISA”) as it involves claims by Plaintiff for employee benefits under an employee benefit plan regulated and governed under ERISA. Jurisdiction is predicated under these code sections as well as 28 U.S.C. § 1331 as this action involves a federal question. This action is brought for the purpose of recovering benefits under the terms of an employee benefit plan, enforcing Plaintiff’s rights under the terms of an employee benefit plan, and to clarify Plaintiff’s rights to future benefits under the employee benefit plan.

1 Plaintiff seeks relief, including but not limited to, payment of the correct amount of benefits due
 2 under her plan, prejudgment and post-judgment interest, reinstatement to the benefit plan at issue
 3 herein, and attorneys' fees and costs.

4 2. Venue lies in the Northern District of California pursuant to ERISA § 502(e)(2), 29 U.S.C.
 5 § 1132(e)(2), because Plaintiff resides in this district, the breaches alleged occurred in this District,
 6 and the ERISA-governed plan at issue was administered in part in this District. Venue is also
 7 proper pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions
 8 giving rise to Plaintiff's claims occurred within this District.

9 3. Plaintiff is employed by AXA Investment Managers US, Inc. as an Operations Manager.
 10 Plaintiff resides in Alameda County, State of California. Plaintiff became disabled by a medical
 11 condition and unable to perform full-time work starting February 12, 2019. Starting April 2019,
 12 Plaintiff has worked an average of 25 hours a week for AXA Investment Managers US, Inc. At the
 13 time of her disability, Plaintiff was a participant, as defined by ERISA § 3(7), 29 U.S.C. §
 14 1002(7), in a health and welfare benefit plan sponsored by AXA Investment Managers US, Inc.
 15 ("the Plan"), which provided, among other benefits, long term disability ("LTD") benefits. The
 16 plan's coverage of LTD benefits is insured and administered by Unum, under policy number
 17 138643.

18 4. Unum is a licensed insurance firm headquartered in the State of Tennessee. It is a
 19 subsidiary of Unum Group. Unum offers group LTD policies in various states, including
 20 California. Unum is authorized to transact business in the Northern District of California and may
 21 be found in the Northern District of California.

22 5. Intradistrict Assignment – Pursuant to Civil L.R. 3-2(c) and 3-5, Plaintiff believes that this
 23 matter should be assigned to either the Oakland or San Francisco divisions since a substantial part
 24 of the events or omissions which give rise to this action occurred primarily in Alameda County.

25 FIRST CLAIM FOR RELIEF
 26 (29 U.S.C. § 1132(a)(1)(B))
 27 Long-Term Disability Benefits

28 6. Plaintiff incorporates by reference all preceding paragraphs as though fully set forth herein.

7. Plaintiff filed a claim for LTD benefits with Unum based on her partial disability. Unum assigned claim number 18354846. Unum approved Plaintiff's LTD claim and began paying her benefits, offset by her work earnings pursuant to the terms of the Plan.

8. By letter dated January 10, 2022, Unum determined that Plaintiff was no longer partially disabled and that she could perform the full-time duties of her regular occupation. Unum closed her claim effective January 11, 2022.

9. On September 12, 2022, Plaintiff timely appealed the termination of her LTD benefits on the basis that she suffers from ongoing physical conditions that render her disabled under the terms of the Plan.

10. By letter dated October 27, 2022, Unum upheld the termination of Plaintiff's LTD benefits.

11. Plaintiff has been, and continues to be, disabled and entitled to LTD benefits.

12. Plaintiff has exhausted any and all administrative remedies which may be required by ERISA or the Plan.

13. By terminating Plaintiff's LTD benefits, Unum has breached the terms of the Plan and ERISA, has failed to provide Plaintiff with a full and fair review, and has been unjustly enriched from its breach of fiduciary duty to Plaintiff.

14. Unum policy number 138643 is governed by the laws of the State of California, is subject to Cal. Ins. Code § 10110.6, and does not contain any discretionary language. Thus, the Court's review of Unum's decision will be de novo.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff prays for relief against Unum as follows:

1. Payment of LTD benefits due to Plaintiff;
2. An order declaring that Plaintiff is entitled to an award of LTD benefits, and that benefits are to continue to be paid under the Plan for so long as Plaintiff remains disabled under the terms of the Plan;
3. Pursuant to 29 U.S.C. § 1132(g), payment of all costs and attorneys' fees incurred in pursuing this action;

- 1 4. Payment of prejudgment and post-judgment interest as allowed for under ERISA; and
- 2 5. Such other and further relief as this Court deems just and proper.

3
4 DATED: October 31, 2022

ROBERTS DISABILITY LAW, P.C.

5 By: /s/ Michelle L. Roberts
6 Michelle L. Roberts

7 Attorneys for Plaintiff,
8 Lynnette Zeller
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